Public Notice

US Army Corps of Engineers
Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice Number: SPK-2008-00174 GB
Date: April 1, 2008
Comments Due: May 1, 2008
In reply, please refer to the Public Notice Number

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application to construct the Eldred Dam/Spirit Reservoir project, which would result in impacts to approximately 0.773 acres of waters of the United States, including wetlands, in or adjacent to the South Fork of Horsefly Creek (Figure 1). This notice is to inform interested parties of the proposed activity and to solicit comments. This notice may also be viewed at the Corps web site at http://www.spk.usace.army.mil/regulatory.html.

AUTHORITY: This application is being evaluated under Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States.

APPLICANT: Eldred Colorado FLP
3000 Sand Hill Road B-1, Suite 145
Menlo Park, California
(650) 561-0003

AGENT: Ms. Aleta Powers
ERO Resources Corporation
29844 Stingley Gulch Road
Hotchkiss, Colorado 81419
(970) 872-3020

LOCATION: The project site is located within the South Fork of Horsefly Creek drainage, Sections 32 and 33, Township 46 North, Range 10 West and Section 5, Township 45 North, Range 10 West, NMPM, Montrose County, Colorado, and can be seen on the Horsefly Peak and Hotchkiss Reservoir USGS Topographic Quadrangles.

PROJECT DESCRIPTION: The applicant is proposing to construct a multi-purpose reservoir. Based on the available information, the overall project purpose is to improve existing agricultural operations, firm water rights and provide diverse year-round aquatic habitat. The applicant believes there is a need to have water to allow the irrigation season to be extended later in the year, allow for year-round stock watering and provide habitat for both terrestrial and aquatic species. The attached drawings provide additional project details.

ADDITIONAL INFORMATION:

Environmental Setting. The ranch has been operated as a cattle and sheep ranch for about 65 years. The elevation of the project area is approximately 8,700 feet above sea level. There are approximately 3,400 feet of stream and wetland fringe (palustrine emergent) in the project area. The majority of the channel contains either emergent or sub emergent aquatic vegetation and therefore was included in the total of 0.773 acres of wetland in the project area. The site is characterized by an incised channel with a narrow wetland fringe widening in the southern portion of the study area where the channel is not so deeply incised. The northern portion of the project area is irrigated pasturelands, the western portion is rolling sagebrush-grassland hills dominated by sagebrush. The slopes above the eastern side of the creek are vegetated by sagebrush and scrub oak. The southern portion (upstream) supports irrigated

pasturelands, scrub oak and occasional stands of aspen.

Alternatives. The applicant has provided information concerning project alternatives. Additional information concerning project alternatives may be available from the applicant or their agent. Other alternatives may develop during the review process for this permit application. All reasonable project alternatives, in particular those which may be less damaging to the aquatic environment, will be considered.

Because the purpose and need for the proposed project are specific to the South Fork of Horsefly Creek, the alternatives are focused on that area.

Alternative 1: No Action
Under the no action alternative, the proposed reservoir would not be constructed along South Fork of Horsefly Creek and no impacts to waters of the United States, including wetlands, would occur. Under this alternative, the project purpose and need for improving the existing agricultural operations, firming the water rights, and providing diverse, year-round aquatic habitat would not be met.

Alternative 2: Construct Reservoir Upstream or Downstream of Proposed Location
Reservoir locations both upstream and downstream of the proposed location were considered. The topography upstream and downstream is not conducive to dam construction and would result in a much shallower, less efficient reservoir with increased resource impacts. More extensive wetland areas occur in the broader, flatter valley both upstream and downstream of the proposed project location; therefore, these sites would result in more wetland impacts.

Alternative 3: Construct Smaller reservoir at Same Location
A smaller reservoir would extend the irrigation season in normal water years. However, the smaller reservoir would not provide firm yield; in drought years there would be insufficient water supply. Therefore, a smaller reservoir would not meet the 'firm yield' portion of the purpose and need. In addition, the smaller reservoir would not provide year-round aquatic habitat as described in the project purpose. A smaller reservoir would likely be completely drained by the end of the irrigation season, would not allow carryover storage for dry year irrigation, and would not support aquatic species including fish and aquatic invertebrates.

Alternative 4: Construction of Reservoir at Proposed Location (Applicant's Preferred Alternative)
The proposed alternative includes a dam with an approximately 65-foot-high earth embankment with a crest at elevation 8,715 feet. The embankment will consist of on-site homogeneous earth fill of gravely grey clay obtained from the reservoir area and will be compacted to form the embankment. Other features include an internal drainage (sand filter) system at the downstream toe and an upstream erosion protection consisting of 2-foot-thick riprap over riprap bedding. The outlet works will be located along the right side of the valley floor and will include a reinforced concrete intake structure with a hydraulic actuated water control gate, reinforced concrete pipe with concrete saddle, and a reinforced concrete impact basin. A structural concrete spillway would be located on the left abutment of the dam embankment and would consist of a re-graded earth approach channel, and an approximately 900-foot-long reinforced concrete spillway that includes a crest control structure, rectangular spillway chute, and downstream stilling basin.
The proposed reservoir would have a surface area of 29 acres. Impacts to waters of the U.S., including wetlands would result from clean fill for embankments, concrete for the construction of the outlet works, and inundation from the reservoir. The project would eliminate creek habitat for about 0.63 miles.

Mitigation. The Corps requires that applicants consider and use all reasonable and practical measures to avoid and minimize impacts to aquatic resources. If the applicant is unable to avoid or minimize all impacts, the Corps may require compensatory mitigation. The applicant has proposed to create wetlands on site to mitigate the unavoidable impacts of the project (Figures 2-4). All temporarily disturbed areas will be revegetated with native species. In addition to revegetating temporarily disturbed areas, 0.773 acres of wetlands will be created to compensate for impacts at a 1:1 ratio. About 6,200 linear feet of shoreline will replace the 3,344 linear feet of stream channel. Additionally, about 140 willow cuttings will be planted along the mitigation areas to replace the shrubs removed during construction. See the attached figures for the proposed mitigation location and details.
The mitigation section of the South Fork of Horsefly Creek will be of higher ecological value than the existing channel. Currently, the South Fork of Horsefly Creek is incised and has cut banks between 1 and 4 feet high. This limits the amount of wetland and riparian vegetation that can become established. In fact, a riparian corridor is currently precluded at most locations by the steep cut banks and low water table. Creating a gentle grade and shallow banks in the proposed mitigation area will maximize the amount of wetland and riparian vegetation that can become established, and will create a broad expanse of wetlands rather than a narrow restrained fringe. Also, the new wetland/riparian areas will be protected from livestock and elk damage by temporary fencing.

OTHER GOVERNMENTAL AUTHORIZATIONS: Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the State of Colorado **is required** for this project. The applicant has indicated they will be applying for certification. The applicant will also be getting a permit from the state engineer for the dam.

HISTORIC PROPERTIES: Based on the available information and a search of the Compass data base, cultural resources have not been located within the project's area of potential effect. A survey (MC.E.R38) just southeast of the project area for a transmission line right of way did not locate any cultural resources near the project area.

ENDANGERED SPECIES: The proposed activity may affect Federally-listed endangered or threatened species or their critical habitat. The Corps will initiate consultation with the U.S. Fish and Wildlife Service, pursuant to Section 7 of the Endangered Species Act, as appropriate.

ESSENTIAL FISH HABITAT: The proposed project will not adversely affect Essential Fish Habitat (EFH) as defined in the Magnuson-Stevens Fishery Conservation and Management Act.

The above determinations are based on information provided by the applicant and our preliminary review.

EVALUATION FACTORS: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the described activity will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare

of the people. The activity's impact on the public interest will include application of the Section 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230).

The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

SUBMITTING COMMENTS: Written comments, referencing Public Notice SPK-2008-00174 GB must be submitted to the office listed below on or before May 1, 2008.

Susan Moyer, Project Manager
US Army Corps of Engineers, Sacramento District
Colorado West Regulatory Office
400 Rood Avenue, Room 142
Grand Junction, Colorado 81501
Email: susan.t.moyer@usace.army.mil

The Corps is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant or the Corps' project manager Susan Moyer, (970) 243-1199 x 14, susan.t.moyer@usace.army.mil.

Attachments: 4 drawings